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7                   **UNITED STATES DISTRICT COURT**  
8                   **CENTRAL DISTRICT OF CALIFORNIA**  
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10 A.K.C., a minor, by and through her  
11 Guardian Ad Litem STEVE KIM;  
12 NANCY KIM; and YUNG KIM,  
13                   Plaintiffs,

14                   vs.  
15 CITY OF SANTA ANA; CITY OF  
16 BUENA PARK; and DOES 1-10,  
17 inclusive.

18                   Defendants.

19                   AND ALL RELATED ACTIONS,

20                   }) Case No.: SACV09-01153 CJC (ANx)

21                   }) **[Proposed] PROTECTIVE ORDER**  
22                   }) (as modified by the court)  
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27                   })  
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29                   }) Discovery Cut-Off: March 11, 2011  
30                   }) Pre-Trial Conference: June 13, 2011  
31                   }) Trial: June 21, 2011  
32                   })

33                   The protective order shall govern the disclosure of all personnel records and  
34 internal affairs records, including the internal affairs investigation materials  
35 relating to the officer-involved shooting of Decedent Susie Kim produced in  
36 discovery in the lawsuit entitled A.K.C., et al. v. City of Santa Ana, et al., bearing  
37 case number SACV09-01153 CJC (ANx).

38                   1. All personnel documents, internal affairs documents and all responses  
39 to interrogatories which pertain to the personnel and internal affairs documents  
40 produced by defense in discovery as ordered by the Court (hereinafter collectively

1 “the Protected Documents”)<sup>1</sup>, will be clearly designated prior to the disclosure or  
2 production of such Protected Documents, and will bear the notation of  
3 “Confidential” on each page provided the notation does not obscure or obliterate  
4 the document’s contents. All Protected Documents shall be subject to this  
5 Protective Order as follows.

6       2. Each person receiving any of the Protected Documents shall not  
7 disclose to any person or entity, in any manner, including orally, any of the  
8 Protected Documents or any of the information contained therein, except when  
9 used for purposes of this litigation pursuant to this protective order.

10      (a) The Protected Documents and all information contained therein, may  
11 only be disclosed to the following “qualified” persons:

12      (b) Counsel of record for the parties to this civil litigation;

13      (c) Plaintiffs, the Guardian Ad Litem or similar representative of any  
14 plaintiff, and Defendant City of Santa Ana and its employees, including, but not  
15 limited to Officer Brandon Sontag;

16      (d) Paralegal, stenographic, clerical and secretarial personnel regularly  
17 employed by counsel referred to in subparagraph (a); and, investigators, expert  
18 witnesses and other persons legitimately involved in litigation-related activities for  
19 the counsel of record.

20      (e) Court personnel, including stenographic reporters engaged in such  
21 proceedings as are necessarily incidental to preparation for the trial of this action.

22      3. The confidential information may be disclosed to the Court and court  
23 personnel, in connection with this litigation. Protected Documents that a party  
24 intends to use in support of or in opposition to a pre-trial filing with the Court must  
25 be filed in accordance with the Central District of California Local Rules relating

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28 <sup>1</sup> Documents may qualify as Protected Documents only if they have not been  
made public.

1 to under seal filings, including Local Rule 79-5. Counsel intending to use  
2 information from Protected Documents must both (a) apply to submit unredacted  
3 documents containing information from Protected Documents under seal and (b)  
4 file public versions of the same documents with the information from Protected  
5 Documents redacted.

6       4. In the event this matter proceeds to trial, to the extent that any of the  
7 Protected Documents are offered into evidence, those Protected Documents will  
8 become public, unless sufficient cause is shown in advance of trial to proceed  
9 otherwise.

10      5. The court reporter, videographer, and audiographer, if any, who  
11 record all or part of the depositions in this matter of any City of Santa Ana  
12 employee, including, but not limited to Officer Brandon Sontag, which include  
13 Protected Documents or descriptions thereof shall be subject to this Order and  
14 precluded from providing any portions of the original deposition videotape,  
15 audiotape, or exhibits which relate to the Protected Documents or information to  
16 any persons other than counsel of record, absent order of the court.

17      6. Those attending the deposition of any City of Santa Ana employee  
18 including, but not limited to Officer Brandon Sontag, shall be bound by this Order  
19 and, therefore, shall not disclose to any person or entity, in any manner, including  
20 orally, any statements relating to information within the Protected Documents  
21 made by such person during the course of said depositions.

22      7. At any deposition of any City of Santa Ana employee, should there be  
23 persons in attendance who are not authorized to access to the Protected Documents  
24 or information, such persons shall be removed from the deposition room at any  
25 time information relating to the Protected Documents or protected information is  
26 disclosed or discussed.

27      8. The Protected Documents shall be used solely in connection with the  
28 preparation and trial of the within this action A.K.C., et al. v. City of Santa Ana, et

1 al., bearing case number SACV09-01153 CJC (ANx), or any related appellate  
2 proceeding, and not for any other purpose, including, without limitation, any other  
3 litigation or administrative proceedings or any investigation related thereto.

4        9. This Order may not be modified ~~unless by written consent of the~~  
5 ~~parties and approval of~~ without the Court's prior written approval. Any party  
6 may move for a modification of this Order at any time.

7        10. This Order is made for the purpose of ensuring that the Protected  
8 Documents and the information contained therein will remain confidential.

9       11. At the conclusion of this litigation, upon request of defense counsel,  
10 plaintiff's counsel shall return all Protected Documents to Steven J. Rothans, Esq.,  
11 Carpenter, Rothans & Dumont, 888 S. Figuerora Street, Suite 1960, Los Angeles,  
12 California 90017. Alternatively, the receiving parties and every other person  
13 and/or entity who received originals or copies of the protected information may  
14 destroy all such material and material derived therefrom within thirty (30) calendar  
15 days after the conclusion of this case. Additionally, within thirty (30) calendar  
16 days after the conclusion of this case, counsel for the receiving parties shall send a  
17 signed declaration stating that such material has been destroyed pursuant to this  
18 Protective Order.

19       12. Nothing in this Order shall be construed as authorizing a party to  
20 disobey a lawful subpoena issued in another action.

## **GOOD CAUSE**

22 The City of Santa Ana submits that GOOD CAUSE exists to preserve the  
23 confidentiality of the records governed by this stipulation, where the documents  
24 consist of portions of a police officer's personnel file and an internal affairs  
25 investigation of an officer-involved shooting. The Santa Ana Police Department  
26 has generated and collected the records governed by this stipulation and has  
27 maintained the strictest confidentiality with respect to all of the materials requested  
28 (peace officer personnel files and internal affairs / administrative investigation

1 files). At no time have any of the requested materials been released to anyone  
2 other than the City of Santa Ana Personnel Department and City of Santa Ana City  
3 Attorney's Office, including other governmental agencies, except as the City  
4 and/or Santa Ana Police Department may have been ordered by other Courts. It is  
5 the defendants' position – as outlined in the opposition to the Motion to Compel  
6 underlying the disclosure of these documents – that disclosure of the records  
7 violates the subject peace officer's right to privacy as protected by the California  
8 and United States Constitutions. The parties submit that a protective order  
9 governing these documents will serve to balance the officer's right of privacy with  
10 the plaintiffs' right to discovery in this litigation.

## IT IS SO ORDERED.

13 | DATED: September 17, 2010 /s/ Arthur Nakazato

Honorable Arthur Nakazato  
United States District Court  
Magistrate Judge